

AG Contract No KR00 1998TRN
ADOT ECS File No JPA 00-170
Project No. US-60, I-10 – Val Vista Drive
TRACS No : H5370 02D
Project: Prepare Legislative
Design - Build Report

INTERAGENCY AGREEMENT
BETWEEN
THE DEPARTMENT OF TRANSPORTATION
AND
THE ARIZONA STATE UNIVERSITY

THIS AGREEMENT is entered into 24 October, 2000, between agencies of the State of Arizona, to wit, the DEPARTMENT OF TRANSPORTATION (the "DOT") and the ARIZONA BOARD OF REGENTS, acting for and on behalf of ARIZONA STATE UNIVERSITY, (the "University")

I. RECITALS

1. The DOT is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the DOT.

2. The University is empowered by Arizona Revised Statutes Section 15-1626 to enter into this agreement and has delegated to the undersigned authority to execute this agreement on behalf of the University.

3. Arizona House Bill No. 2340, a copy (in applicable part) of which is attached hereto as Exhibit A and made a part hereof, requires reports to the Arizona legislature relating to the DOT's design/build process. The DOT and the University desire to cooperate in obtaining information required (see Exhibit B) to formulate the reports, at an estimated cost of \$200,000 00, all at DOT expense, hereinafter referred to as the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows.

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II. SCOPE OF WORK

1. The DOT will:

- a. Appoint a Project coordinator within the DOT's Construction Group to interface with the University relating to gathering the information required on Exhibit A.
- b. Provide the University with information and data as may be reasonably available to assist in the Project gathering of the information as outlined in Exhibit A.
- c. Reimburse the University within forty-five (45) days after receipt and approval of monthly invoices, in a total amount not to exceed \$200,000.00

2. The University will:

- a. Appoint a Project coordinator at the University (ASU) to interface with the DOT relating to obtaining information (as outlined in Exhibit A).
- b. Accomplish gathering the information required for the reports compliant with the requirements outlined in Exhibit A.
- c. No more often than monthly, invoice the DOT in the form of Exhibit B attached hereto, supported by narrative reports and an accounting of monthly costs and expenditures on the Project. Upon completion of the Project, provide the DOT with a detailed final report.

III. MISCELLANEOUS PROVISIONS

1. Title to all documents, reports and other deliverables prepared by the University in performance of this agreement shall rest jointly with the DOT and the University

2. This agreement shall become effective upon signature by the parties hereto, and shall remain in force and effect until on or about 31 August 2004, or upon completion of said Project and reimbursements; provided, however, that this agreement, may be cancelled at any time prior to the commencement of performance under this agreement, upon thirty (30) days written notice to the other party.

3. The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination and affirmative action.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement relating to the agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, AZ 85007

Arizona State University
College of Engineering and Construction
PO Box 870204
Tempe, AZ 85287-0204


8. The parties recognize that performance by ASU under this Agreement may be dependent upon the appropriation of funds by the State Legislature of Arizona. Should the Legislature at any time fail to appropriate the necessary funds for such performance, the, by written notice to the DOT, ASU may cancel this Agreement.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

STATE OF ARIZONA

THE ARIZONA BOARD OF REGENTS
acting for and on behalf of
ARIZONA STATE UNIVERSITY

DEPARTMENT OF TRANSPORTATION

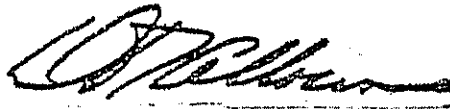
By 
Gary Delago, Interim Director
Off. of Research & Creative
Activities

By 
WILLIAM J. HIGGINS
Deputy State Engineer

RESOLUTION

BE IT RESOLVED on this 24th day of September 2000, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with Arizona State University for the purpose of defining responsibilities for preparing reports required by ARS 28-7363 (G).

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', is written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

ARIZONA DEPARTMENT OF TRANSPORTATION

SUPERSTITION FREEWAY DESIGN-BUILD PROJECT RESEARCH PROPOSAL

Arizona State University		%	Year 1 Sep 00 - Aug 01	Year 2 Sep 01 - Aug 02	Year 3 Sep 02 - Aug 03	Year 4 Sep 03 - Aug 04	Total
Labor Hours	Faculty		282	282	282	282	1,128
	Grad Students		1660	1660	1660	1660	6,640
	Total Hours		1942	1942	1942	1942	7,768
Based upon 2 graduate students each working 16 hours/week for 52 weeks each year plus 6 hours/week for one faculty member for 47 weeks each year							
Labor Costs	Faculty		\$11,808	\$12,162	\$12,527	\$12,903	\$49,400
	Grad Students		\$22,449	\$22,449	\$22,449	\$22,449	\$89,797
Benefit Costs	Faculty	25%	\$2,952	\$3,041	\$3,132	\$3,226	\$12,350
	Students	8%	\$1,796	\$1,796	\$1,796	\$1,796	\$7,184
	Labor & Benefit Costs		\$39,005	\$39,448	\$39,904	\$40,374	\$158,730
Overhead	26.00%		\$10,141	\$10,256	\$10,375	\$10,497	\$41,270
Total			\$49,146	\$49,704	\$50,279	\$50,871	\$200,000

State of Arizona
House of Representatives
Forty-fourth Legislature
Second Regular Session
2000

HOUSE BILL 2340

AN ACT

AMENDING SECTIONS 15-213, 28-6713 AND 28-6923, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 28, CHAPTER 20, ARTICLE 13, ARIZONA REVISED STATUTES, TO "ALTERNATIVE CONTRACTING PROCEDURES"; AMENDING SECTION 28-7361, ARIZONA REVISED STATUTES; RENUMBERING SECTION 28-7363, ARIZONA REVISED STATUTES, AS SECTION 28-7362; AMENDING TITLE 28, CHAPTER 20, ARTICLE 13, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-7363, 28-7364 AND 28-7365; AMENDING SECTIONS 34-102 AND 34-103, ARIZONA REVISED STATUTES; AMENDING TITLE 34, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 6; AMENDING SECTIONS 41-2503, 41-2533, 41-2534, 41-2537, 41-2546, 41-2573, 41-2574, 41-2576, 41-2577 AND 41-2578, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 23, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2579; REPEALING LAWS 1998, CHAPTER 278, SECTION 6, AS AMENDED BY LAWS 1999, CHAPTER 207, SECTION 2; REPEALING LAWS 1998, CHAPTER 278, SECTION 12; PROVIDING FOR THE DELAYED REPEAL OF LAWS 1998, CHAPTER 278, SECTION 5, AS AMENDED BY LAWS 1999, CHAPTER 207, SECTION 1, LAWS 1998, CHAPTER 278, SECTION 6, AS AMENDED BY LAWS 1999, CHAPTER 101, SECTION 3, LAWS 1998, CHAPTER 278, SECTION 7, LAWS 1998, CHAPTER 278, SECTION 8, AS AMENDED BY LAWS 1999, CHAPTER 207, SECTION 3, LAWS 1998, CHAPTER 278, SECTION 9, AS AMENDED BY LAWS 1999, CHAPTER 207, SECTION 4 AND LAWS 1998, CHAPTER 278, SECTIONS 10 AND 11; RELATING TO PROCUREMENT OF PROFESSIONAL AND CONSTRUCTION SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-213, Arizona Revised Statutes, is amended to read:

15-213. Procurement practices of school districts; definitions

A. The state board of education shall adopt rules prescribing procurement practices for all school districts in this state as follows:

1. The state board shall submit to the auditor general proposed rules consistent with the procurement practices prescribed in title 41, chapter 23, modifying the provisions for public notice of invitation for bids. REQUESTS FOR PROPOSALS AND REQUESTS FOR QUALIFICATIONS to allow a governing board to give public notice of the invitation for bids. REQUESTS FOR PROPOSALS AND REQUESTS FOR QUALIFICATIONS by publication in the official newspaper of the county as defined in section 11-255, modifying the provisions relating to disposal of materials to comply with section 15-342, paragraph 18, providing for governing board delegation of procurement authority and modifying as necessary other provisions which the state board determines are not appropriate for school districts, for procurement of construction, materials or services when the total procurement exceeds thirty thousand dollars in total cost. The rules shall include provisions specifying that school districts are not required to engage in competitive bidding in order to make the decision to participate in programs pursuant to section 15-382 and that a program authorized by section 15-382 is not required to engage in competitive bidding for other than the joint purchase of insurance or reinsurance. The rules for procurement of construction projects shall include provisions specifying that surety bonds furnished as bid security and performance and payment bonds shall be executed and furnished as required by title 34, chapter 2 OR 6, AS APPLICABLE.

2. The state board of education, on or before July 1, 1998, shall adopt rules for procurements involving construction not exceeding one hundred fifty thousand dollars which shall be known as the simplified school construction procurement program. At a minimum, the rules for a simplified construction procurement program shall require that:

(a) A list be maintained by each county school superintendent of persons who desire to receive solicitations to bid on construction projects to which additions shall be permitted throughout the year.

(b) The list of persons be available for public inspection.

(c) A performance bond and a payment bond as required by this section be provided for contracts for construction by contractors.

(d) All bids for construction be opened at a public opening and the bids shall remain confidential until the public opening.

(e) All persons desiring to submit bids be treated equitably and the information related to each project be available to all eligible persons.

(f) Competition for construction projects under the simplified school construction procurement program be encouraged to the maximum extent possible. At a minimum, a school district shall submit information on each

1 project to all persons listed with the county school superintendent by any
2 school district within that county.

3 3. The auditor general shall review the proposed rules to determine
4 whether the rules are consistent with the procurement practices prescribed in
5 title 41, chapter 23 and any modifications are required to adapt the
6 procedures for school districts.

7 4. If the auditor general approves the proposed rules, ~~he~~ THE AUDITOR
8 GENERAL shall notify the state board in writing and the state board shall
9 adopt such rules.

10 5. If the auditor general objects to the proposed rules, ~~he~~ THE
11 AUDITOR GENERAL shall notify the state board of the objections in writing and
12 the state board, in adopting the rules, shall conform the proposed rules to
13 meet the objections of the auditor general or revise the proposed rules to
14 which an objection has been made and submit the revisions to the auditor
15 general for approval.

16 B. After the bids SUBMITTED IN RESPONSE TO AN INVITATION FOR BIDS are
17 opened AND THE AWARD IS MADE OR AFTER THE PROPOSALS OR QUALIFICATIONS ARE
18 SUBMITTED IN RESPONSE TO A REQUEST FOR PROPOSALS OR A REQUEST FOR
19 QUALIFICATIONS and the award is made, the governing board shall make
20 available for public inspection all information, ~~and~~ ALL bids, PROPOSALS AND
21 QUALIFICATIONS submitted ~~by bidders~~, AND ALL findings and other information
22 considered in determining whose bid conforms to the invitation for bids and
23 will be the most advantageous with respect to price, conformity to the
24 specifications and other factors OR WHOSE PROPOSAL OR QUALIFICATIONS ARE TO
25 BE SELECTED FOR THE AWARD. The invitation for bids, REQUEST FOR PROPOSALS OR
26 REQUEST FOR QUALIFICATIONS shall include a notice that all information and
27 bids, PROPOSALS AND QUALIFICATIONS submitted ~~by bidders~~ will be made
28 available for public inspection. The rules adopted by the state board shall
29 prohibit the use in connection with procurement of specifications in any way
30 proprietary to one supplier unless the specification includes all of the
31 following:

32 1. A statement of the reasons why no other specification is
33 practicable.

34 2. A description of the essential characteristics of the specified
35 product.

36 3. A statement specifically permitting an acceptable alternative
37 product to be supplied.

38 C. No project or purchase may be divided or sequenced into separate
39 projects or purchases in order to avoid the limits prescribed by the state
40 board under subsection A of this section.

41 D. A contract for the procurement of construction shall include a
42 provision which provides for negotiations between the school district and the
43 contractor for the recovery of damages related to expenses incurred by the
44 contractor for a delay for which the school district is responsible, which is
45 unreasonable under the circumstances and which was not within the
46 contemplation of the parties to the contract. This section shall not be

1 construed to void any provision in the contract which requires notice of
2 delays, provides for arbitration or other procedure for settlement or
3 provides for liquidated damages.

4 E. The auditor general may conduct discretionary reviews,
5 investigations and audits of the financial and operational procurement
6 activities of school districts, nonexempt charter schools and school
7 purchasing cooperatives. The auditor general has final review and approval
8 authority over all school district, nonexempt charter school and school
9 purchasing cooperative audit contracts and any audit reports issued in
10 accordance with this section.

11 F. In addition to the requirements of sections 15-914 and 15-914.01,
12 school districts, nonexempt charter schools and school ~~district~~ purchasing
13 cooperatives, in connection with any audit conducted by a certified public
14 accountant, shall contract for a systematic review of purchasing practices
15 using methodology consistent with sampling guidelines established by the
16 auditor general. The auditor general shall consider cost when establishing
17 guidelines pursuant to this subsection and to the extent possible shall
18 attempt to minimize the cost of the review. The purpose of the review is to
19 determine whether the school district, nonexempt charter school or school
20 purchasing cooperative is in compliance with the procurement laws and
21 applicable procurement rules of this state. A copy of the review shall be
22 submitted upon completion to the auditor general. The auditor general may
23 conduct discretionary reviews of school districts, nonexempt charter schools
24 and school purchasing cooperatives not required to contract for independent
25 audits.

26 G. The attorney general or county attorney has jurisdiction to enforce
27 this section. The attorney general or county attorney may seek relief for
28 any violation of this section through an appropriate civil or criminal action
29 in superior court including an action to enjoin a threatened or pending
30 violation of this section and including an action to enforce compliance with
31 any request for documents made by the auditor general pursuant to this
32 section.

33 H. The department of education shall enact policies and procedures for
34 the acceptance and disposition of complaints from the public regarding school
35 procurement practices and shall forward all school procurement complaints to
36 the attorney general.

37 I. The state board of education shall adjust the total cost provided
38 for in subsection A, paragraph 1 of this section by the annual percentage
39 change in the GDP price deflator as defined in section 41-563, subsection E.

40 J. NO MORE THAN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF
41 THIS AMENDMENT TO THIS SECTION, THE STATE BOARD OF EDUCATION AND THE AUDITOR
42 GENERAL SHALL ADOPT RULES AUTHORIZING SCHOOL DISTRICTS TO PROCURE
43 CONSTRUCTION SERVICES BY CONSTRUCTION-MANAGER-AT-RISK, DESIGN-BUILD AND
44 JOB-ORDER-CONTRACTING METHODS OF PROJECT DELIVERY. THE RULES ADOPTED SHALL
45 REQUIRE EACH SCHOOL DISTRICT THAT USES CONSTRUCTION-MANAGER-AT-RISK,
46 DESIGN-BUILD OR JOB-ORDER-CONTRACTING TO PROCURE CONSTRUCTION SERVICES TO

SUBMIT, ON OR BEFORE JANUARY 15 OF EACH YEAR. A REPORT TO THE STATE BOARD OF EDUCATION. THE GOVERNOR, THE PRESIDENT OF THE SENATE. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE SECRETARY OF STATE AND THE DIRECTOR OF THE DEPARTMENT OF LIBRARY, ARCHIVES AND PUBLIC RECORDS ON THE TOTAL BENEFITS ASSOCIATED WITH THE USE OF SUCH PROCUREMENT METHODS. THE REPORT SHALL INCLUDE A STATEMENT OF COSTS INCURRED BY THE SCHOOL DISTRICT IN SECURING THESE SERVICES. ANY OVERALL ADMINISTRATIVE BENEFITS REALIZED THROUGH THE USE OF THE PROCUREMENT METHODS. THE NUMBER OF PROJECTS BEGUN IN THE PRECEDING CALENDAR YEAR USING THAT PROCUREMENT METHOD, THE COST AND DESCRIPTION OF EACH PROJECT, ANY ANTICIPATED COST SAVINGS RESULTING FROM THE USE OF THAT PROCUREMENT METHOD AND ANY ACTUAL COST SAVINGS REALIZED THROUGH THE USE OF THAT PROCUREMENT METHOD AND ANY OTHER INFORMATION THAT THE STATE BOARD OF EDUCATION DEEMS NECESSARY AND APPROPRIATE. THE REPORT IS A REQUIREMENT FOR PARTICIPATION IN CONSTRUCTION-MANAGER-AT-RISK. DESIGN-BUILD OR JOB-ORDER-CONTRACTING PROCUREMENT AGREEMENTS.

K. UNTIL THE RULES PRESCRIBED IN SUBSECTION J OF THIS SECTION ARE ADOPTED, SCHOOL DISTRICTS MAY PROCURE CONSTRUCTION SERVICES BY THE CONSTRUCTION-MANAGER-AT-RISK, DESIGN-BUILD AND JOB-ORDER-CONTRACTING METHODS OF PROJECT DELIVERY AS PROVIDED IN TITLE 41, CHAPTER 23. EXCEPT THAT THE RULES ADOPTED BY THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION DO NOT APPLY. ANY PROCUREMENT COMMENCED PURSUANT TO THIS SUBSECTION MAY BE COMPLETED PURSUANT TO THIS SUBSECTION REGARDLESS OF THE ADOPTION OF RULES BY THE STATE BOARD OF EDUCATION AND THE AUDITOR GENERAL.

L. For the purposes of this section:

1. "Nonexempt charter school" means a charter school that is not exempted from procurement laws pursuant to section 15-183, subsection E, paragraph 6.

2. "School purchasing cooperative" means ~~a school~~ AN ENTITY ENGAGED IN COOPERATIVE purchasing ~~cooperative~~ as defined in section 41-2631, ~~paragraph 1.~~

3. "Total cost" means the cost of all materials and services, including the cost of labor performed by employees of the school district, for all construction as provided in subsection A of this section.

Sec. 2. Section 28-6713, Arizona Revised Statutes, is amended to read:

28-6713. Bids for construction, reconstruction, equipment or supplies; procedure; bond; exceptions

A. Except as provided in subsection F of this section, in a county with a population of one hundred fifty thousand persons or more as determined by the most recent United States decennial census or the most recent special census as provided in section 28-6532, bids for all items of construction or reconstruction involving an expenditure equal to or greater than the amount determined pursuant to subsection B of this section, all purchases or other acquisition of equipment involving an expenditure of more than five thousand dollars and all purchases of supplies and materials involving an expenditure of two thousand five hundred dollars or more shall be called for by advertising in a newspaper of general circulation in the county for two

1 consecutive publications if it is a weekly newspaper, or for two publications
2 of at least six but not more than ten days apart— if it is a daily
3 newspaper. The advertisement shall state specifically the character of the
4 work to be done and the kind and quality of materials or supplies to be
5 furnished.

6 B. Bids shall be called pursuant to subsection A of this section for
7 all items of construction or reconstruction involving an expenditure of:

8 1. In fiscal year 1985-1986, thirty-five thousand dollars.

9 2. In fiscal year 1986-1987 and each fiscal year thereafter, the
10 amount provided in paragraph 1 of this subsection adjusted by the annual
11 percentage change in the GDP price deflator as defined in section 41-563.

12 C. If the board of supervisors receives a satisfactory bid, it shall
13 contract with the lowest responsible bidder after the contractor or supplier
14 gives any bond required by title 34, chapter 2, article 2, except that in
15 counties with a population of more than one million persons according to the
16 most recent United States decennial census, in determining the lowest
17 responsible bidder under this section, the board may consider, for no more
18 than five projects, the time of completion proposed by the bidder, the value
19 over time of completed services and facilities and the value over time of
20 interrupted services, if the board determines that this procedure will serve
21 the public interest by providing a substantial fiscal benefit or that the use
22 of the traditional awarding of contracts is not practicable for meeting
23 desired construction standards or delivery schedules and if the formula for
24 considering the time of completion is specifically stated in the bidding
25 information. The board may reject any or all bids and readvertise.

26 D. The board of supervisors, a member of the board of supervisors or
27 any other official or agent of a county affected by this section shall not
28 segregate or divide into separate units a contiguous or continuous portion of
29 highway construction or reconstruction or divide into separate portions an
30 item of equipment or generally recognized unit of supplies or material to
31 avoid the restrictions imposed by subsection A of this section.

32 E. After a contract has been awarded, the board of supervisors'
33 authorized representative may authorize change orders to the contract if
34 necessary pursuant to guidelines set by the board of supervisors. This
35 authority does not permit the board of supervisors' authorized representative
36 to act independently to award new contracts.

37 F. A building, structure, addition or alteration may be constructed
38 without complying with the bidding requirements of this section if the
39 construction, including construction of buildings or structures on public or
40 private property, is required as a condition of development of private
41 property and is authorized by section 9-463.01 or 11-806.01. For the
42 purposes of this subsection, building does not include any police, fire,
43 school, library or other public building.

44 G. SUBSECTIONS A, B AND C OF THIS SECTION DO NOT APPLY TO PROCUREMENT
45 OF CONSTRUCTION-MANAGER-AT-RISK, DESIGN-BUILD AND JOB-ORDER-CONTRACTING
46 CONSTRUCTION SERVICES PURSUANT TO TITLE 34, CHAPTER 6.

1 Sec. 3. Section 28-6923, Arizona Revised Statutes, is amended to read:
2 28-6923. Bid requirements; procedure; bond

3 A. All items of construction or reconstruction of department
4 facilities involving an expenditure of fifty thousand dollars or more shall
5 be called for by advertising in a newspaper of general circulation published
6 in this state for either:

- 7 1. Two consecutive publications if it is a weekly newspaper.
8 2. Two publications at least six but not more than ten days apart if
9 it is a daily newspaper.

10 B. The advertisement shall state specifically the character of the
11 work to be done and where a person may obtain copies of the plans.
12 specifications and complete information as to the proposed work.

13 C. The bidding information provided shall state specifically the
14 character of the work to be performed and the kind, quantity and quality of
15 materials or supplies to be furnished. The plans and specifications:

16 1. Shall be sufficiently complete, definite and explicit to permit
17 informed, free, open and competitive bidding on a common basis.

18 2. May require performance on the basis of either means and methods
19 specifications or end result specifications.

20 3. If end result specifications are used, shall provide an objective
21 or standard to be achieved with the successful bidder expected to exercise
22 the bidder's skill and ingenuity in achieving that objective or standard of
23 performance by selecting the means and manner of performance and by assuming
24 a corresponding responsibility for that selection.

25 D. A bid shall be accompanied by a certified check, cashier's check or
26 surety bond for ten per cent of the amount of the bid included in the
27 proposal as a guarantee that the contractor will enter into a contract to
28 perform the proposal pursuant to the plans and specifications.

29 E. The certified check, cashier's check or surety bond shall be
30 returned to the contractors whose proposals are not accepted and to the
31 successful contractor on the execution of a satisfactory bond and contract as
32 provided in this article.

33 F. The surety bond provided pursuant to subsection D of this section
34 shall be executed and furnished as required by title 34, chapter 2, and the
35 conditions and provisions of the surety bid bond regarding the surety's
36 obligations shall follow the form required under section 34-201, subsection
37 A, paragraph 3.

38 G. If a bid that is satisfactory to the board is received, it shall
39 let a contract to the lowest responsible bidder, on the contractor giving
40 performance and payment bonds that follow the form and include the provisions
41 required by title 34, chapter 2, article 2.

42 H. If the bids received for construction or reconstruction are not
43 satisfactory to the board, a second call shall be made. If they are again
44 rejected by the board, it may authorize the state engineer to construct or
45 reconstruct the item as it deems most advantageous.

1 I. ~~Until October 1, 1999,~~ In determining the lowest responsible bidder
2 under this section, the department and the board may consider the time of
3 completion proposed by the bidder ~~for no more than twenty projects~~ if the
4 department and the board determine that this procedure will serve the public
5 interest by providing a substantial fiscal benefit or that the use of the
6 traditional awarding of contracts is not practicable for meeting desired
7 construction standards or delivery schedules and if the formula for
8 considering the time of completion is specifically stated in the bidding
9 information.

10 J. This section does not prohibit a change to a construction contract
11 that either:

12 1. Does not alter the scope of the work under a contract and the cost
13 of the change does not exceed ten per cent of the contract amount or fifty
14 thousand dollars, whichever is greater.

15 2. Does alter the scope of the work if the cost of the change does not
16 exceed ten per cent of the contract amount or fifty thousand dollars,
17 whichever is greater, and the changed work is within twenty per cent of the
18 total project length.

19 K. If a project is funded completely with private monies, the private
20 entity is not required to comply with subsections A through J of this section
21 if the private entity complies with all of the following:

22 1. Before advertising for bids, submits to the department a bond that
23 is issued by a surety insurer authorized to do business in this state and
24 that is in an amount equal to one hundred twenty-five per cent of the
25 anticipated construction cost of the project, including construction
26 management and contractor costs.

27 2. Solicits sealed bids from at least four contractors who are
28 prequalified by the department to perform a contract of the anticipated
29 dollar amount of the construction.

30 3. Awards the contract to the best bidder taking into account price
31 and other criteria as provided in the bid documents.

32 4. Obtains bonds from the selected contractor that provide the same
33 coverage as performance and payment bonds issued under title 34, chapter 2,
34 article 2.

35 5. Uses department construction standards.

36 6. Pays all costs of department reviews of the contract and
37 inspections of the project.

38 L. For the purposes of this section, a project is funded completely
39 with private monies if all of the following apply:

40 1. The contractor is paid entirely with monies from private entities.

41 2. The private entities hire a competent construction manager and
42 contractor who do not have an affiliation with each other.

43 3. The private entities either pay all costs of design or reimburse
44 the department for all costs of design.

1 Sec. 4. Heading change

2 The article heading of title 28, chapter 20, article 13, Arizona
3 Revised Statutes, is changed from "EMERGENCY CONTRACTING PROCEDURES" to
4 "ALTERNATIVE CONTRACTING PROCEDURES".

5 Sec. 5. Section 28-7361, Arizona Revised Statutes, is amended to read:

6 28-7361. Definitions

7 In this article, unless the context otherwise requires: —

8 1. "DESIGN-BUILD" MEANS THE PROCESS OF ENTERING INTO AND MANAGING A
9 CONTRACT BETWEEN THE DEPARTMENT AND ANOTHER PARTY IN WHICH THE OTHER PARTY
10 AGREES TO BOTH DESIGN AND BUILD A HIGHWAY, A STRUCTURE, A FACILITY OR OTHER
11 ITEMS SPECIFIED IN THE CONTRACT.

12 2. "DESIGN-BUILDER" MEANS ANY INDIVIDUAL, PARTNERSHIP, JOINT VENTURE,
13 CORPORATION OR OTHER LEGAL ENTITY THAT IS APPROPRIATELY LICENSED IN THIS
14 STATE AND THAT FURNISHES THE NECESSARY DESIGN SERVICES. IN ADDITION TO
15 CONSTRUCTION OF THE WORK, WHETHER BY ITSELF OR THROUGH SUBCONTRACTS,
16 INCLUDING SUBCONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES.

17 3. "Emergency" means an immediate threat to public health, welfare or
18 safety caused by flood, earthquake, hurricane, tornado, explosion, fire or
19 other catastrophe such that compliance with normal bidding procedures for
20 repair or reconstruction of transportation facilities would be impracticable
21 or contrary to the public interest.

22 Sec. 6. Renumber

23 Section 28-7363, Arizona Revised Statutes, is renumbered as section
24 28-7362.

25 Sec. 7. Title 28, chapter 20, article 13, Arizona Revised Statutes, is
26 amended by adding sections 28-7363, 28-7364 and 28-7365, to read:

27 28-7363. Design-build method of project delivery; report

28 A. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT MAY USE THE
29 DESIGN-BUILD METHOD OF PROJECT DELIVERY ON A PROJECT IF THE DEPARTMENT MAKES
30 A DETERMINATION IN WRITING THAT IT IS APPROPRIATE AND IN THE BEST INTERESTS
31 OF THE DEPARTMENT TO USE THE DESIGN-BUILD METHOD OF PROJECT DELIVERY FOR THAT
32 PROJECT, EXCEPT THAT:

33 1. THE DEPARTMENT SHALL NOT ENTER INTO A CONTRACT TO OPERATE ANY
34 STRUCTURE, FACILITY OR OTHER ITEM PURSUANT TO THIS ARTICLE.

35 2. THE DEPARTMENT SHALL NOT ENTER INTO CONTRACTS FOR MORE THAN TWO
36 DESIGN-BUILD PROJECTS IN EACH FISCAL YEAR.

37 3. EACH DESIGN-BUILD PROJECT SHALL BE A SPECIFIC, SINGLE PROJECT WITH
38 A MINIMUM CONSTRUCTION COST OF FORTY MILLION DOLLARS. THE DEPARTMENT SHALL
39 NOT ARTIFICIALLY COMBINE OR AGGREGATE PROJECTS IN ORDER TO CIRCUMVENT THE
40 MINIMUM CONSTRUCTION COST REQUIREMENT. FOR THE PURPOSES OF THIS PARAGRAPH,
41 "SPECIFIC, SINGLE PROJECT" MEANS A PROJECT THAT IS CONSTRUCTED AT A SINGLE
42 LOCATION, AT A COMMON LOCATION OR FOR A COMMON PURPOSE.

43 4. THE DEPARTMENT SHALL NOT COMMENCE ANY DESIGN-BUILD PROJECT AFTER
44 JUNE 30, 2007. FOR THE PURPOSES OF THIS PARAGRAPH, A PROJECT IS COMMENCED ON
45 THE DATE THE DEPARTMENT AND DESIGN-BUILDER EXECUTE THE CONTRACT FOR THE
46 PROJECT. IF THE DEPARTMENT AND DESIGN-BUILDER EXECUTE A DESIGN-BUILD

1 CONTRACT ON OR BEFORE JUNE 30, 2007. SERVICES AND CONSTRUCTION UNDER THE
2 CONTRACT MAY BE RENDERED IN WHOLE OR IN PART AFTER JUNE 30, 2007.

3 B. THE ESTIMATED COST OF THE PROJECT SHALL NOT INCLUDE THE COST TO
4 PROCURE ANY RIGHT-OF-WAY OR OTHER COST OF CONDEMNATION. THE COST TO PROCURE
5 ANY RIGHT-OF-WAY OR OTHER COST OF CONDEMNATION REMAINS AT ALL TIMES THE
6 RESPONSIBILITY OF THE DEPARTMENT. THE DEPARTMENT SHALL OBTAIN ALL NECESSARY
7 RIGHTS-OF-WAY

8 C. THE DEPARTMENT IS RESPONSIBLE FOR PREPARATION AND ACQUISITION OF
9 ALL ENVIRONMENTAL DOCUMENTS, INCLUDING THE SCOPE OF ANY REMEDIATION AND
10 REQUIRED CLEARANCES.

11 D. IF CONSTRUCTION OF A DESIGN-BUILD PROJECT INVOLVES RAILROAD
12 FACILITIES, THE RAILROAD SHALL APPROVE THE USE OF THE DESIGN-BUILD DELIVERY
13 METHOD BEFORE THE DEPARTMENT AWARDS THE DESIGN-BUILD CONTRACT.

14 E. TO ENSURE FAIR, UNIFORM, CLEAR AND EFFECTIVE PROCEDURES THAT WILL
15 DELIVER A QUALITY PROJECT ON TIME AND WITHIN BUDGET, THE DIRECTOR, IN
16 CONJUNCTION WITH THE APPROPRIATE AND AFFECTED PROFESSIONALS AND CONTRACTORS,
17 MAY ADOPT PROCEDURES FOR PROCURING A PROJECT USING THE DESIGN-BUILD METHOD OF
18 PROJECT DELIVERY.

19 F. THE PROVISIONS OF SECTIONS 28-6923 AND 28-6924 RELATING TO BID,
20 PERFORMANCE AND PAYMENT BONDS AND TO CHANGE ORDERS, PROGRESS PAYMENTS,
21 CONTRACT RETENTIONS, DEFINITIONS AND AUTHORITY TO AWARD CONTRACTS APPLY TO
22 DEPARTMENT DESIGN-BUILD PROJECTS FOR TRANSPORTATION FACILITIES PURSUANT TO
23 THIS ARTICLE.

24 G. ON OR BEFORE JANUARY 15 OF EACH YEAR, THE DIRECTOR OF THE DEPARTMENT
25 OF TRANSPORTATION SHALL TRANSMIT TO THE GOVERNOR, THE PRESIDENT OF THE
26 SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE SECRETARY OF STATE
27 AND THE DIRECTOR OF THE DEPARTMENT OF LIBRARY, ARCHIVES AND PUBLIC RECORDS A
28 REPORT ON THE TOTAL BENEFITS ASSOCIATED WITH THE USE OF DESIGN-BUILD IN
29 PROCURING CONSTRUCTION SERVICES. THE REPORT SHALL INCLUDE A STATEMENT OF
30 COSTS INCURRED IN SECURING THE SERVICES, ANY OVERALL ADMINISTRATIVE BENEFITS
31 REALIZED THROUGH THE USE OF DESIGN-BUILD, THE NUMBER OF PROJECTS BEGUN IN THE
32 PRECEDING CALENDAR YEAR USING DESIGN-BUILD AND THE COST AND DESCRIPTION OF
33 EACH PROJECT, ANY ANTICIPATED COST SAVINGS RESULTING FROM THE USE OF THAT
34 PROCUREMENT METHOD AND ANY ACTUAL COST SAVINGS REALIZED THROUGH THE USE OF
35 THAT PROCUREMENT METHOD.

36 28-7364. Design-build criteria

37 THE DEPARTMENT SHALL USE THE FOLLOWING CRITERIA AS THE MINIMUM BASIS
38 FOR DETERMINING WHEN TO USE THE DESIGN-BUILD METHOD OF PROJECT DELIVERY:

39 1. THE EXTENT TO WHICH IT CAN ADEQUATELY DEFINE THE PROJECT
40 REQUIREMENTS.

41 2. THE TIME CONSTRAINTS FOR DELIVERY OF THE PROJECT.

42 3. THE CAPABILITY AND EXPERIENCE OF POTENTIAL TEAMS WITH THE
43 DESIGN-BUILD METHOD OF PROJECT DELIVERY.

44 4. THE SUITABILITY OF THE PROJECT FOR USE OF THE DESIGN-BUILD METHOD
45 OF PROJECT DELIVERY IN THE AREAS OF TIME, SCHEDULE, COSTS AND QUALITY.

1 5. THE CAPABILITY OF THE DEPARTMENT TO MANAGE THE PROJECT, INCLUDING
2 THE EMPLOYMENT OF EXPERIENCED PERSONNEL OR OUTSIDE CONSULTANTS.

3 6. THE CAPABILITY OF THE DEPARTMENT TO OVERSEE THE PROJECT WITH
4 PERSONS WHO ARE FAMILIAR WITH THE DESIGN-BUILD METHOD OF PROJECT DELIVERY.

5 7. OTHER CRITERIA THE DEPARTMENT DEEMS RELEVANT.

6 28-7365. Design-build; two-phase solicitation

7 A. IF THE DEPARTMENT DETERMINES THAT THE DESIGN-BUILD METHOD OF
8 PROJECT DELIVERY IS APPROPRIATE, THE DEPARTMENT SHALL ESTABLISH A TWO-PHASE
9 PROCEDURE FOR AWARDING THE DESIGN-BUILD CONTRACT.

10 B. DURING PHASE ONE, AND BEFORE SOLICITATION, THE DIRECTOR SHALL
11 APPOINT A SELECTION TEAM OF AT LEAST THREE PERSONS. AT LEAST ONE-HALF OF THE
12 SELECTION TEAM SHALL BE ARCHITECTS OR ENGINEERS WHO ARE REGISTERED PURSUANT
13 TO SECTION 32-121. THE SELECTION TEAM MEMBERS MAY BE EITHER DEPARTMENT
14 EMPLOYEES OR OUTSIDE CONSULTANTS. THE SELECTION TEAM SHALL ALSO INCLUDE A
15 LICENSED CONTRACTOR WHO IS NOT INVOLVED IN THE PROJECT. ANY ARCHITECT OR
16 ENGINEER WHO IS SERVING ON THE SELECTION TEAM AND WHO IS NOT A DEPARTMENT
17 EMPLOYEE SHALL NOT BE OTHERWISE INVOLVED IN THE PROJECT. THE DEPARTMENT
18 SHALL PREPARE DOCUMENTS FOR A REQUEST FOR QUALIFICATIONS.

19 C. THE REQUEST FOR QUALIFICATIONS SHALL INCLUDE ALL OF THE FOLLOWING:

20 1. THE MINIMUM QUALIFICATIONS OF THE DESIGN-BUILDER.

21 2. A SCOPE OF WORK STATEMENT AND SCHEDULE.

22 3. DOCUMENTS DEFINING THE PROJECT REQUIREMENTS.

23 4. THE FORM OF CONTRACT TO BE AWARDED.

24 5. THE SELECTION CRITERIA FOR COMPILING A SHORT LIST AND THE NUMBER OF
25 FIRMS TO BE INCLUDED ON THE SHORT LIST. AT LEAST THREE BUT NOT MORE THAN
26 FIVE FIRMS SHALL BE INCLUDED ON THE SHORT LIST.

27 6. A DESCRIPTION OF THE PHASE TWO REQUIREMENTS AND SUBSEQUENT
28 MANAGEMENT NEEDED TO BRING THE PROJECT TO COMPLETION.

29 7. THE MAXIMUM TIME ALLOWABLE FOR DESIGN AND CONSTRUCTION.

30 8. THE DEPARTMENT'S ESTIMATED COST OF DESIGN AND CONSTRUCTION.

31 D. THE SELECTION TEAM SHALL EVALUATE THE DESIGN-BUILD QUALIFICATIONS
32 OF RESPONDING FIRMS AND SHALL COMPILE A SHORT LIST OF FIRMS IN ACCORDANCE
33 WITH TECHNICAL AND QUALIFICATIONS-BASED CRITERIA. THE NUMBER OF FIRMS ON THE
34 SHORT LIST SHALL BE THE NUMBER OF FIRMS SPECIFIED IN THE REQUEST FOR
35 QUALIFICATIONS, EXCEPT THAT, IF A SMALLER NUMBER OF FIRMS RESPONDS TO THE
36 SOLICITATION OR IF ONE OR MORE OF THE FIRMS ON THE SHORT LIST DROP OUT SO
37 THAT ONLY TWO FIRMS REMAIN ON THE SHORT LIST, THE SELECTION TEAM MAY PROCEED
38 WITH THE SELECTION PROCESS WITH THE REMAINING FIRMS IF AT LEAST TWO FIRMS
39 REMAIN OR THE SELECTION TEAM MAY READVERTISE AS THE SELECTION TEAM DEEMS
40 NECESSARY.

41 E. DURING PHASE TWO, THE DEPARTMENT SHALL ISSUE A REQUEST FOR
42 PROPOSALS TO THE DESIGN-BUILDERS ON THE SHORT LIST. THE REQUEST SHALL
43 INCLUDE:

44 1. THE SCOPE OF WORK, INCLUDING PROGRAMMATIC, PERFORMANCE AND
45 TECHNICAL REQUIREMENTS, CONCEPTUAL DESIGN, SPECIFICATIONS AND FUNCTIONAL AND
46 OPERATIONAL ELEMENTS FOR THE DELIVERY OF THE COMPLETED PROJECT, WHICH SHALL

1 ALL BE PREPARED BY AN ARCHITECT OR ENGINEER, AS APPROPRIATE, WHO IS
2 REGISTERED PURSUANT TO SECTION 32-121.

3 2. A DESCRIPTION OF THE QUALIFICATIONS REQUIRED OF THE DESIGN-BUILDER
4 AND THE SELECTION CRITERIA, INCLUDING THE WEIGHT OR RELATIVE ORDER, OR BOTH,
5 OF EACH CRITERION.

6 3. COPIES OF THE CONTRACT DOCUMENTS THAT THE SUCCESSFUL PROPOSER WILL
7 BE EXPECTED TO SIGN.

8 4. THE MAXIMUM TIME ALLOWABLE FOR DESIGN AND CONSTRUCTION

9 5. THE DEPARTMENT'S ESTIMATED COST OF DESIGN AND CONSTRUCTION.

10 6. THE REQUIREMENT THAT A PROPOSAL BE SEGMENTED INTO TWO PARTS, A
11 TECHNICAL PROPOSAL AND A PRICE PROPOSAL. EACH PROPOSAL SHALL BE IN A
12 SEPARATELY SEALED, CLEARLY IDENTIFIED PACKAGE AND SHALL INCLUDE THE DATE AND
13 TIME OF THE SUBMITTAL DEADLINE. THE TECHNICAL PROPOSAL SHALL INCLUDE A
14 SCHEDULE, SCHEMATIC DESIGN PLANS AND SPECIFICATIONS, TECHNICAL REPORTS,
15 CALCULATIONS, PERMIT REQUIREMENTS, APPLICABLE DEVELOPMENT FEES AND OTHER DATA
16 REQUESTED IN THE REQUEST FOR PROPOSALS. THE PRICE PROPOSAL SHALL CONTAIN ALL
17 DESIGN, CONSTRUCTION, ENGINEERING, INSPECTION AND CONSTRUCTION COSTS OF THE
18 PROPOSED PROJECT.

19 7. THE DATE, TIME AND LOCATION OF THE PUBLIC OPENING OF THE SEALED
20 PRICE PROPOSALS.

21 8. OTHER INFORMATION RELEVANT TO THE PROJECT.

22 F. AFTER REVIEWING THE PROPOSALS, THE DEPARTMENT SHALL PROCEED AS
23 FOLLOWS:

24 1. THE SELECTION TEAM SHALL SCORE THE TECHNICAL PROPOSALS USING THE
25 SELECTION CRITERIA IN THE REQUEST FOR PROPOSALS. THE TECHNICAL REVIEW TEAM
26 SHALL THEN SUBMIT A TECHNICAL PROPOSAL SCORE FOR EACH DESIGN-BUILDER TO THE
27 DEPARTMENT. THE TECHNICAL REVIEW TEAM SHALL REJECT ANY PROPOSAL IT DEEMS TO
28 BE NONRESPONSIVE.

29 2. THE DEPARTMENT SHALL ANNOUNCE THE TECHNICAL PROPOSAL SCORE FOR EACH
30 DESIGN-BUILDER, SHALL PUBLICLY OPEN THE SEALED PRICE PROPOSALS AND SHALL
31 DIVIDE EACH DESIGN-BUILDER'S PRICE BY THE SCORE THAT THE SELECTION TEAM HAS
32 GIVEN TO IT TO OBTAIN AN ADJUSTED SCORE. THE DESIGN-BUILDER SELECTED SHALL
33 BE THAT RESPONSIVE AND RESPONSIBLE DESIGN-BUILDER WHOSE ADJUSTED SCORE IS THE
34 LOWEST.

35 3. IF A TIME FACTOR IS INCLUDED WITH THE SELECTION CRITERIA IN THE
36 REQUEST FOR PROPOSALS PACKAGE, THE DEPARTMENT MAY ALSO ADJUST THE BIDS USING
37 A VALUE OF THE TIME FACTOR ESTABLISHED BY THE DEPARTMENT. THE VALUE OF THE
38 TIME FACTOR SHALL BE A VALUE PER DAY. THE ADJUSTMENT SHALL BE BASED ON THE
39 TOTAL TIME VALUE. THE TOTAL TIME VALUE IS THE DESIGN-BUILDER'S PROPOSED
40 NUMBER OF DAYS TO COMPLETE THE PROJECT MULTIPLIED BY THE FACTOR. THE TIME
41 ADJUSTED PRICE IS THE TOTAL TIME VALUE PLUS THE BID AMOUNT. THIS ADJUSTMENT
42 SHALL BE USED FOR SELECTION PURPOSES ONLY AND SHALL NOT AFFECT THE
43 DEPARTMENT'S LIQUIDATED DAMAGES SCHEDULE OR INCENTIVE AND DISINCENTIVE
44 PROGRAM. AN ADJUSTED SCORE SHALL THEN BE OBTAINED BY DIVIDING EACH
45 DESIGN-BUILDER'S TIME ADJUSTED PRICE BY THE SCORE GIVEN BY THE TECHNICAL

1 REVIEW TEAM. THE DEPARTMENT SHALL SELECT THE RESPONSIVE AND RESPONSIBLE
2 DESIGN-BUILDER WHOSE ADJUSTED SCORE IS THE LOWEST.

3 4. UNLESS ALL PROPOSALS ARE REJECTED. THE BOARD SHALL AWARD THE
4 CONTRACT TO THE RESPONSIVE AND RESPONSIBLE DESIGN-BUILDER WITH THE LOWEST
5 ADJUSTED SCORE. THE BOARD RESERVES THE RIGHT TO REJECT ALL PROPOSALS.

6 5. THE DEPARTMENT SHALL AWARD A STIPULATED FEE EQUAL TO TWO-TENTHS OF
7 ONE PER CENT OF THE DEPARTMENT'S ESTIMATED COST OF DESIGN AND CONSTRUCTION TO
8 EACH SHORT LIST RESPONSIBLE PROPOSER WHO PROVIDES A RESPONSIVE, BUT
9 UNSUCCESSFUL PROPOSAL. IF THE DEPARTMENT DOES NOT AWARD A CONTRACT, ALL
10 RESPONSIVE PROPOSERS SHALL RECEIVE THE STIPULATED FEE. IF THE DEPARTMENT
11 CANCELS THE CONTRACT BEFORE REVIEWING THE TECHNICAL PROPOSALS, THE DEPARTMENT
12 SHALL AWARD EACH DESIGN-BUILDER ON THE SELECTED SHORT LIST A STIPULATED FEE
13 EQUAL TO TWO-TENTHS OF ONE PER CENT OF THE DEPARTMENT'S ESTIMATED COST OF
14 DESIGN AND CONSTRUCTION. THE DEPARTMENT SHALL PAY THE STIPULATED FEE TO EACH
15 PROPOSER WITHIN NINETY DAYS AFTER THE AWARD OF THE CONTRACT OR THE DECISION
16 NOT TO AWARD A CONTRACT. IN CONSIDERATION FOR PAYING THE STIPULATED FEE, THE
17 DEPARTMENT MAY USE ANY IDEAS OR INFORMATION CONTAINED IN THE PROPOSALS IN
18 CONNECTION WITH ANY CONTRACT AWARDED FOR THE PROJECT, OR IN CONNECTION WITH A
19 SUBSEQUENT PROCUREMENT. WITHOUT ANY OBLIGATION TO PAY ANY ADDITIONAL
20 COMPENSATION TO THE UNSUCCESSFUL PROPOSERS. NOTWITHSTANDING THE OTHER
21 PROVISIONS OF THIS PARAGRAPH, AN UNSUCCESSFUL SHORT LIST PROPOSER MAY ELECT
22 TO WAIVE THE STIPULATED FEE. IF AN UNSUCCESSFUL SHORT LIST PROPOSER ELECTS
23 TO WAIVE THE STIPULATED FEE, THE DEPARTMENT MAY NOT USE IDEAS AND INFORMATION
24 CONTAINED IN THE PROPOSER'S PROPOSAL.

25 Sec. 8. Section 34-102, Arizona Revised Statutes, is amended effective
26 on August 15, 2000 to read:

27 34-102. Employment of architect or engineer for work on public
28 buildings and structures; direct selection of
29 engineers; short list selection; procurement

30 A. When authority is given by law to an agent to construct a building
31 or structure, or additions to or alterations of existing buildings or
32 structures, an architect or engineer, or both, as warranted by the type of
33 construction, shall be employed by the agent if the work is deemed of a
34 nature warranting such employment.

35 B. When an engineer is employed, the agent may enter into a contract
36 with the engineer, and fix ~~his~~ THE ENGINEER'S compensation.

37 C. THE AGENT MAY ELECT TO EMPLOY AN ENGINEER BY ENCOURAGING PERSONS OR
38 FIRMS ENGAGED IN THE LAWFUL PRACTICE OF THE PROFESSION TO SUBMIT ANNUALLY A
39 STATEMENT OF QUALIFICATIONS AND EXPERIENCE. IF THE AGENT ELECTS TO EMPLOY AN
40 ENGINEER BY THIS METHOD, THE AGENT SHALL INITIATE AN APPROPRIATELY QUALIFIED
41 SELECTION COMMITTEE FOR EACH CONTRACT IN ACCORDANCE WITH RULES ADOPTED BY THE
42 AGENT. THE SELECTION COMMITTEE SHALL EVALUATE CURRENT STATEMENTS OF
43 QUALIFICATIONS AND EXPERIENCE ON FILE WITH THE AGENT, TOGETHER WITH THOSE
44 THAT MAY BE SUBMITTED BY OTHER PERSONS OR FIRMS REGARDING THE PROPOSED
45 CONTRACT. IF POSSIBLE, THE SELECTION COMMITTEE SHALL CONDUCT DISCUSSIONS
46 WITH AT LEAST THREE PERSONS OR FIRMS REGARDING THE CONTRACT AND THE RELATIVE